

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

TRACEY WHITE et. al.,

*

Plaintiffs,

*

vs.

* **Case No. 4:14-cv-01490 (HEA)**

*

THOMAS JACKSON, et. al.,

*

Defendants.

*

**PLAINTIFFS' MOTION FOR FURTHER AND FINAL
MODIFICATION OF THE COURT'S CASE MANAGEMENT ORDER**

Come now the plaintiffs, by and through counsel, and hereby move the Court for a further and final modification of the amended case management order that it entered on August 12, 2015. In support of their motion the plaintiffs aver as follows:

1. This action was initiated on August 28, 2014. Following preliminary motions practice and amendments of the initial complaint, the Court entered a case management order on April 28, 2015. Significantly, the Court ordered that initial disclosures be provided by no later than May 20, 2015.

2. Upon receipt of the defendants' initial disclosures, it became apparent to the plaintiffs that a number of necessary parties needed to be included in the lawsuit, therefore, the plaintiffs filed an amended complaint adding thirteen (13) additional defendants on May 27, 2015, as mandated by the case management order.

3. The additional defendants filed answers on June 29 and July 6, 2015, at which point this matter became "at issue." On August 7, 2015, the plaintiffs filed a consent motion to modify the

scheduling order in this case due to the amendment and the addition of numerous parties. The Court granted that motion and entered an amended case management order on August 12, 2015.

4. Fact discovery is well underway and is almost completed. To date the plaintiffs have taken the depositions of the fourteen (14) named defendant officers, one civilian witness (Keith Eyre) and defendants Jackson (former Chief of Police for Ferguson) and Belmar (current Chief of Police for St. Louis County). The defendants have deposed nine (9) of the ten (10) plaintiffs. Two depositions, St. Louis County Det. Menzenwerth, and St. Louis Alderman Antonio French, are scheduled for November 30, 2015.

5. Pursuant to the amended case management order, plaintiffs' expert designation was due on September 20, 2015, and the defendants' expert designation was due on October 20, 2015, and all expert depositions were to be completed by November 20, 2015. While the plaintiffs have retained an expert who has reviewed most of the materials in this case, the deposition transcripts of Chief Belmar and Chief Jackson, from their depositions taken on October 27, 2015, have yet to be reviewed as they have not yet to be provided. These two individuals are crucial to plaintiffs' case. In addition, due to scheduling difficulties and personal matters requiring his attention, Det. Menzenwerth, another witness that is crucial to plaintiffs' case will not be deposed until November 30, 2015. Plaintiffs' proposed expert has advised that the testimony of Det. Menzenwerth is critical to his analysis.

6. Most significantly, however, the United States Department of Justice, issued an After Action Assessment of the Police Response in Ferguson following the shooting death of Michael Brown. That report was issued on or about October 3, 2015, and is a comprehensive assessment of all aspects of the police in Ferguson from August 9, 2014 through August 25, 2014. It was only just

recently obtained. In sum, while the parties have worked diligently to prepare this matter for trial consistent with the amended case management order, the sheer volume of the discovery that needed to be conducted was unexpected. The plaintiffs submit that modification of the present case management order is warranted under the circumstances. Moreover, the modification requested by the plaintiffs will not impact the current trial date of **May 23, 2016**.

Wherefore for the reasons stated herein and in the record of this proceeding, the plaintiffs seek a modification of the scheduling order in the following manner:

1). Plaintiffs shall disclose all experts and shall provide their reports no later than **December 15, 2015**, and plaintiffs shall make the expert(s) available for deposition. The defendants shall provide their reports no later than **January 30, 2016** and any depositions of the expert(s) shall be completed by **February 15, 2016**;

2). The parties shall complete all discovery in this case no later than **February 15, 2016**;

3). Any motions to dismiss, for summary judgment or motions for judgment on the pleadings must be filed no later than **February 27, 2016**. Opposition briefs shall be filed no later than **March 21, 2016** and any reply brief may be filed no later than **March 30, 2016**.

In all other respects, the amended case management order dated August 12, 2015, shall remain in full force and effect.

CERTIFICATION OF COUNSEL

Prior to filing this motion, the plaintiffs consulted with counsel for the defendants who take the position that any modification should be as follows:

**Plaintiffs are to name their expert or experts by December 15th and make their expert or experts available for depositions no later than January 15th.
Defendants are to name experts by February 15th and make their expert or**

experts available for depositions no later than March 15th. All discovery must be completed by March 30th, 2016. Motions on the pleadings or motions for summary judgment are to be filed no later than April 29th, 2016. Opposition briefs shall be filed no later than May 20st (sic), 2016. The trial will be on or after August 22st(sic), 2016.

Otherwise, the defendants object the modification of the case management order as proposed by the plaintiffs.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing filed electronically with the Clerk of the Court was served electronically via the Court's electronic filing system on this day of November 10, 2015, upon:

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